

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MOSES KIRSCHKE,

Plaintiff,

Case No. 19-13788

Honorable Denise Page Hood

v.

CORIZON HEALTH INCORPORATED, et al.

Defendants.

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ORDER DENYING APPEAL OF MAGISTRATE JUDGE’S ORDER

This matter is before the Court on Plaintiff Moses Kirschke’s Appeal (ECF No. 83) of the Magistrate Judge’s Order (ECF No. 78) denying his motion for appointment of an expert and counsel.

The decision and order of a non-dispositive motion by a magistrate judge will be upheld unless it is clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); Fed.R.Civ.P. 72(a). Any appeal of or objections to a magistrate judge’s order must be made within 14 days of the entry of the order, must specify the part of the order the party objects to, and state the basis for the objection. E.D. Mich. LR 72.1; 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(a). Objections that are only general and are not specific waive the right to appeal. See *Howard v. Secretary of HHS*, 923 F.2d 505, 508-09

(6th Cir. 1991). In a non-dispositive order entered by a magistrate judge, a district judge shall consider such objections and shall modify or set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law. Fed.R.Civ.P. 72(a). "A finding is 'clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." *United States v. United States Gypsum Co.*, 333 U.S. 364, 398 (1948); *Hagaman v. Commissioner of Internal Revenue*, 958 F.2d 684, 690 (6th Cir. 1992). Rule 72(a) provides considerable deference to the determinations of the magistrate judges. *In re Search Warrants*, 889 F.Supp. 296, 298 (S.D. Ohio 1995). The Magistrate Judge's decision on a dispositive motion will be reviewed *de novo*. 28 U.S.C. § 636(b)(1)(C); *Vogel v. U.S. Office Products Co.*, 258 F.3d 509, 515 (6th Cir. 2001).

After reviewing the Magistrate Judge's Order, the Court finds that the Magistrate Judge's denial of Kirschke's motion for appointment of an expert and counsel was not clearly erroneous nor contrary to law. The denial was without prejudice pending on how the case will progress and later allows Kirschke to renew his motion, if appropriate.

Accordingly,

IT IS ORDERED that Plaintiff's Appeal (ECF No. 83) of the Magistrate Judge's Order is DENIED.

s/Denise Page Hood

DENISE PAGE HOOD

United States District Judge

DATED: November 4, 2022